

(4) Each group or association of NVOCCs shall be responsible for ensuring that each member's financial responsibility coverage allows for claims to be made in the United States against the Surety, Insurer or Guarantor for any judgment for damages against the NVOCC arising from its transportation-related activities under the Shipping Act of 1984, or order for reparations issued pursuant to section 11 of the Shipping Act of 1984, 46 U.S.C. app. 1710, or any penalty assessed against the NVOCC pursuant to section 13 of the Shipping Act of 1984, 46 U.S.C. app. 1712. Each group or association of NVOCCs shall be responsible for requiring each member NVOCC to provide it with valid proof of financial responsibility annually.

(5) Where the group or association of NVOCCs determines to secure on behalf of its members other forms of financial responsibility, as specified by this section, for damages, reparations or penalties not covered by a member's individual financial responsibility coverage, such additional coverage must:

(i) Allow claims to be made in the United States directly against the group or associations's Surety, Insurer or Guarantor for damages against each covered member NVOCC arising from each covered member NVOCC's transportation-related activities under the Shipping Act of 1984, or order for reparations issued pursuant to section 11 of the Shipping Act of 1984, 46 U.S.C. app. 1710, or any penalty assessed against each covered member NVOCC pursuant to section 13 of the Shipping Act of 1984, 47 U.S.C. app. 1712; and

(ii) Be for an amount up to \$50,000.00 for each covered member NVOCC up to a maximum of \$1,000,000.00 for each group or association of NVOCCs.

(6) The coverage provided by the group or association of NVOCCs on behalf of its members, in whole or in part, shall be provided by:

(i) In the case of a surety bond, a surety company found acceptable to the Secretary of the Treasury and issued by such a surety company on Form FMC-69; and

(ii) In the case of insurance and guaranty, a firm having a financial rating of Class V or higher under the Financial Size Categories of A.M. Best &

Company or equivalent from an acceptable international rating organization, Underwriters at Lloyd's, or surplus line insurers named on a current "white list" issued by the Non-Admitted Insurer's Information Office of the National Association of Insurance Commissioners and issued by such firms on Form FMC-67 and Form FMC-68, respectively.

All forms and documents for establishing financial responsibility of NVOCCs prescribed in this section shall be submitted to the Director, Bureau of Tariffs, Certification and Licensing, Federal Maritime Commission, Washington, DC 20573. The Federal Maritime Commission shall not serve as depository or distributor to third parties of bond, guaranty, or insurance funds in the event of any claim, judgment, or order for reparations. Such forms and documents must clearly identify the name; trade name, if any; the address; and effective January 1, 1994, the organization number as provided in 46 CFR 514.11(a) of each NVOCC. Copies of all forms may be obtained from the Commission's Bureau of Tariffs, Certification and Licensing at the address listed above, or from any Area Representative listed at 46 CFR 501.41(d).

[58 FR 5623, Jan. 22, 1993, as amended at 61 FR 51233, Oct. 1, 1996]

§ 583.5 Resident agent.

(a) Every non-vessel-operating common carrier not domiciled in the United States and every group or association of NVOCCs which provide, in whole or in part, financial coverage for a member NVOCC's financial responsibilities pursuant to § 583.4 not domiciled in the United States shall designate and maintain a person in the United States as legal agent for the receipt of judicial and administrative process, including subpoenas.

(b) If the designated legal agent cannot be served because of death, disability, or unavailability, the Secretary, Federal Maritime Commission, will be deemed to be the legal agent for service of process. Any person serving the Secretary must also send to the NVOCC, group or association of

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NVOCCs by registered mail, return receipt requested, at its address published in its tariff on file with the Commission, a copy of each document served upon the Secretary, and shall attest to that mailing at the time service is made upon the Secretary.

(c) Service of administrative process, other than subpoenas, may be effected upon the legal agent by mailing a copy of the document to be served by certified or registered mail, return receipt requested. Administrative subpoenas shall be served in accordance with § 502.134 of this chapter.

(d) Designations of resident agent under paragraphs (a) and (b) of this section and provisions relating to service of process under paragraph (c) of this section shall be published in the NVOCC's tariff in accordance with § 514.15(b)(24) of this chapter.

(e) Every non-vessel-operating common carrier using a group or association of NVOCCs to cover all or part of its financial responsibility requirement under § 583.4 shall publish the name and address of the group or association's resident agent for receipt of judicial and administrative process, including subpoenas, in its tariff in accordance with § 514.15(b)(24)(ii) of this chapter.

[56 FR 51993, Oct. 17, 1991, as amended at 58 FR 5624, Jan. 22, 1993; 60 FR 27230, May 23, 1995]

§ 583.6 Termination of bond or designation of resident agent.

(a) Upon receipt of notice of termination by a surety bond, group supplemental coverage bond, insurance coverage or guaranty, the Commission shall notify the NVOCC or group or association of NVOCCs by certified or registered mail at its address published in its tariff or on the list required of a group or association on file with the Commission, that the Commission shall, without hearing or other proceeding, suspend or cancel the tariff or tariffs of the NVOCC or NVOCCs as of the termination date of the bond, group supplemental coverage bond, insurance coverage or guaranty, unless the NVOCC, group or association of NVOCCs submits a valid replacement surety bond, group supplemental coverage bond, insurance coverage or guaranty before such termination date.

Replacement surety bonds, group supplemental coverage bonds, insurance coverage or guaranties must bear an effective date no later than the termination date of the expiring bond, group supplemental coverage bond, insurance coverage or guaranty. The liability of the retiring surety, insurer or guarantor shall be considered as having terminated as of the effective date of the replacement surety bond, group supplemental coverage bond, insurance policy or guaranty.

(b) Upon receipt of notice of termination of a designation of resident agent, or upon receipt of alternative service of process upon the Secretary in accordance with § 583.5(b), the Commission shall notify the NVOCC by certified or registered mail, at its address published in its tariff on file with the Commission, that the Commission shall, without hearing or other proceeding, suspend or cancel the tariff or tariffs of the NVOCC effective thirty days after receipt of such notice of termination or alternative service of process upon the Secretary unless the NVOCC publishes in its tariff a replacement designation of an agent in the United States for the receipt of judicial and administrative process before such effective date of suspension or cancellation.

[56 FR 51993, Oct. 17, 1991, as amended at 58 FR 5625, Jan. 22, 1993]

§ 583.7 Proof of Compliance.

(a) No common carrier may transport cargo for the account of a shipper known by the carrier to be an NVOCC unless the carrier has determined that that NVOCC has a tariff and a bond as required by sections 8 and 23 of the Act.

(b) A common carrier can obtain proof of an NVOCC's compliance with the tariff and bonding requirements by:

(1) Consulting a current list provided by the Commission of tariffed and bonded NVOCCs; or

(2) Reviewing a copy of the tariff rule published by the NVOCC and in effect under § 514.15(b)(24) of this chapter; or

(3) Any other appropriate procedure, provided that such procedure is set forth in the carrier's tariff of general applicability as required by § 514.15(b)(25) of this chapter.